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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 RUBY FREEMAN,  
4 WANDREA MOSS,

Plaintiffs,

New York, N.Y.

5 v.

24 Civ. 6563 (LJL)

6 RUDOLPH W. GIULIANI,

7 Defendant.  
8

9  
10 September 27, 2024  
2:10 p.m.

11 Before:

12 HON. LEWIS J. LIMAN,

13 U.S. District Judge  
14

15 APPEARANCES  
16

17 WILLKIE, FARR & GALLAGHER, LLP  
18 Attorneys for Plaintiffs

19 BY: AARON E. NATHAN

-AND-

20 PROTECT DEMOCRACY  
BY: RACHEL E. GOODMAN

21  
22 KENNETH CARUSO LAW  
Attorney for Defendant  
23 BY: KENNETH A. CARUSO  
24  
25

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1 (Case called)

2 THE DEPUTY CLERK: Starting with counsel for  
3 plaintiff, please state your appearances for the record.

4 MR. NATHAN: Good morning, your Honor. Good  
5 afternoon. Aaron Nathan, Willkie Farr & Gallagher, joined by  
6 my colleague Rachel Goodman of Protect Democracy, for the  
7 plaintiffs and judgment creditors, Ruby Freeman and Wandrea  
8 Shaye Moss.

9 THE COURT: Good afternoon.

10 MR. CARUSO: Good afternoon, your Honor. Kenneth  
11 Caruso for the defendant, Rudolph W. Giuliani.

12 THE COURT: Good afternoon. Good afternoon,  
13 Mr. Caruso.

14 MR. CARUSO: Thank you.

15 THE COURT: As a preliminary matter, let me address  
16 myself to you, Mr. Caruso.

17 MR. CARUSO: Yes, sir.

18 THE COURT: I have got a bit of a beef with the letter  
19 you sent me dated September 26 and I want to maybe set out some  
20 parameters for going forward. That letter asked, in seemingly  
21 innocuous language, for the Court to extend all existing  
22 deadlines in the two matters to October 16, 2024, and framed it  
23 as a matter of collegiality, professional courtesy among  
24 lawyers. What it omitted to disclose was the fact that, as I  
25 have now come to understand the letter, you are not just asking

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1 for an extension but you are asking for relief not from the  
2 plaintiff but from a Court order, a Court order that certain  
3 filings were already due and the deadline already expired. I  
4 will entertain that request but it is my expectation from you  
5 going forward, and from plaintiff for that matter, that you be  
6 more forthright with the Court in that if you are in fact  
7 seeking relief from a deadline that has already expired that  
8 was set by the Court, you let me know that.

9 MR. CARUSO: No, your Honor, you are absolutely right  
10 and I will do that and I am sorry if you have a beef with it  
11 but -- you're right. I am seeking relief from a Court order  
12 but you know what? I didn't really think of it that way so I'm  
13 sorry.

14 THE COURT: Well, think of it that way. Mr. Nathan, I  
15 am assuming that you will think of it that way. When there are  
16 deadlines that I so order and that have my signature, you don't  
17 just need to get consent from the other side, you need to ask  
18 me for consent. And, when you are asking for it, you need to  
19 let me know that it is not just a matter of professional  
20 courtesy, that you are asking for relief from the Court with  
21 respect to an order.

22 MR. CARUSO: Your Honor, I take your point completely.  
23 Forgive me. I just didn't see it that way when I wrote that  
24 letter.

25 THE COURT: OK. All right.

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1           Mr. Nathan, let me turn to you first. What would be  
2 helpful for me is to understand all of the different matters  
3 that I am going to need to decide and what the deadlines are  
4 and how they relate to one another, and then we will turn to  
5 Mr. Caruso and his request for an extension, but put it all  
6 together for me, if you would.

7           MR. NATHAN: Certainly, your Honor.

8           THE COURT: Maybe if you could speak from the podium,  
9 and Mr. Caruso, I am going to ask you to do the same when you  
10 address the Court. It is a little bit easier for the court  
11 reporter.

12          MR. CARUSO: Of course.

13          MR. NATHAN: Good afternoon.

14          The principal enforcement proceeding is the  
15 miscellaneous case which is Docket no. 24 Misc. 353. That is a  
16 proceeding that was initiated when we registered plaintiffs'  
17 judgment in this district. That judgment, as I am sure your  
18 Honor is aware, reflects the end of a very lengthy process in  
19 the District of Columbia, a jury trial of which my clients were  
20 awarded a significant damages number for the defendant's  
21 willful defamatory campaign against them that he orchestrated  
22 following the 2020 presidential election. That judgment  
23 enforcement proceeding is going to be fairly expansive as  
24 things stand. One of the issues that will need to be decided  
25 and which has -- I won't say they're fully briefed but we filed

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1 a motion and the opposition deadline is the one that passed on  
2 Monday.

3 THE COURT: So that is the turnover motion.

4 MR. NATHAN: That's right, and maybe I should just  
5 take the motions in order.

6 THE COURT: In part what I need to know is what is the  
7 relief that you are seeking; what has been briefed, what the  
8 deadlines are, how the pieces relate to one another.

9 MR. NATHAN: Absolutely.

10 After serving various process on the judgment debtor  
11 which included an information subpoena, a restraining notice,  
12 registering our judgment here, we filed a motion for turnover  
13 on August 30. That motion actually asked for two types of  
14 relief under New York execution procedures. It asked for  
15 turnover of the personal property that we are aware of from  
16 Mr. Giuliani's disclosures in his bankruptcy case which took up  
17 the first eight months of this year. It also asks for  
18 appointment of receivers over the real property.

19 THE COURT: That's the New York apartment and Florida  
20 property?

21 MR. NATHAN: To be precise it is actually, in the  
22 first instance, only the Florida condominium apartment. Real  
23 property is not eligible for turnover under CPLR 5225.

24 THE COURT: Right. The condo shares are.

25 MR. NATHAN: But the co-op shares are treated as

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1 personal property for purposes of New York judgment enforcement  
2 procedures. Having said that, personal property is eligible  
3 for receivership and if Mr. Giuliani does not comply with the  
4 turnover order entered by this Court, we have asked that any  
5 property that isn't promptly turned over or delivered to  
6 plaintiffs is then included in the receivership after a certain  
7 period of time. We have asked for seven days for Mr. Giuliani  
8 to execute any documents necessary to deliver that property.

9 THE COURT: We will, I am sure, get to this after I  
10 receive briefing from the other side, but is a receiver really  
11 the right remedy for personal property that is not turned over  
12 or is it actually arrest of that property by the marshal or the  
13 sheriff or law enforcement?

14 MR. NATHAN: That is a question that we would be happy  
15 to address. We have covered it as a preliminary matter in our  
16 opening brief in support of the motion. Some types of personal  
17 property present the classic case for receivership and in this  
18 case one of those would be Mr. Giuliani's intangible claim for  
19 unpaid attorneys fees that he testified he was owed for work  
20 relating to his representation of one of the presidential  
21 campaigns in 2020. There are other types of personal property  
22 for which it is sometimes preferred to use the receivership  
23 process so that private sale can be effected to maximize the  
24 value of that property. Not everything is value maximizable  
25 when it is seized by a sheriff and auctioned as a foreclosure

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1 auction and that is the basic principal that New York courts  
2 look to in that type of case, and we will have arguments for  
3 why the property that we are discussing here hits those  
4 criteria.

5 THE COURT: So that is the turnover motion that was  
6 filed on August 30. Refresh me as to what the deadline was.

7 MR. NATHAN: The deadline to oppose that motion was  
8 September 23rd.

9 There were then -- and this I hope will end up just  
10 being a footnote to all of this -- as part of plaintiff's  
11 judgment enforcement efforts, a restraining notice was served  
12 on an account held at a bank in Missouri called Parkside  
13 Financial Bank & Trust. There is an account there held by an  
14 entity known as Giuliani Communications, LLC, with which we  
15 have become intimately familiar. That is the entity that  
16 Mr. Giuliani characterized as his alter ego in the bankruptcy  
17 proceedings. Those funds held in that account are subject to  
18 restraint at the moment, but there is a procedure in New York  
19 for claiming exemptions of restrained funds if there is a basis  
20 for such a claim. A couple weeks ago a representative of  
21 Mr. Giuliani's hand-delivered exemption claims to, actually, to  
22 the offices of Willkie Farr in New York City, and we had no  
23 choice but to file motions to quash those claims of exemption.  
24 We filed those motions, I believe, on September -- well, I know  
25 the deadline. The deadline is October 1 to respond to our

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1 motions. For reasons I am happy to explain, I don't think that  
2 there is a serious case for either claim of exemption as things  
3 stand but they do stand with very different footing just based  
4 on the details of the claims and the funds that are the subject  
5 of the claims. I can get into that if your Honor is  
6 interested, although the reality is it may be more constructive  
7 for me to discuss those issues with Mr. Caruso first. That is  
8 not something we have had a chance to do since he was retained  
9 in this case. And I'm sorry I didn't mention, the deadline for  
10 opposition to those motions is October 1. That is calculated  
11 based on local rules, your Honor has not entered orders with  
12 respect to those motions.

13 Last, but certainly not least, is the civil action  
14 that we filed also on August 30.

15 THE COURT: Let me ask you, before we get to the civil  
16 action --

17 MR. NATHAN: Please.

18 THE COURT: -- do the two motions that you mentioned  
19 that take care of the miscellaneous matter resolve the  
20 miscellaneous matter?

21 MR. NATHAN: I wish I could say so. The miscellaneous  
22 matter, it is the docket on which we plan to file all necessary  
23 process and all necessary motions to investigate and then  
24 enforce against Mr. Giuliani's assets that are within the  
25 jurisdiction of this Court.



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1 THE COURT: So am I understanding you correctly that  
2 what you are hoping to do is get a response to the information  
3 subpoena and then continue your investigation, then if there  
4 are further turnover motions to make those, is that where you  
5 are going?

6 MR. NATHAN: If I could add a little bit of color?

7 I would say that our hope of receiving a response to  
8 the information subpoena, "hope" is maybe a strong word. We  
9 have been through this before with Mr. Giuliani. In fact, it  
10 began in the underlying litigation in the District of Columbia  
11 where, ultimately, default judgment was entered as to liability  
12 because Mr. Giuliani refused to respond to valid discovery  
13 requests or comply with Court orders ordering him to comply  
14 with those requests. That related both to his own individual  
15 financial information. There was an adverse inference ordered  
16 against Mr. Giuliani at trial based on his failure to disclose  
17 his own personal financial information and the jury was  
18 instructed to infer that he did that for the purpose of  
19 concealing and minimizing the assets that the jury would know  
20 about, at trial. He also did the same with respect to his  
21 controlled entities. Then there was a bankruptcy and exactly  
22 the same thing repeated itself. That bankruptcy case was  
23 thrown out, essentially, for the same reason.

24 We are now in judgment enforcement proceedings where  
25 plaintiffs have a lot of freedom under execution procedures to

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1 seek discovery, not just from the judgment debtor but from many  
2 third-parties who may be in possession of relevant information,  
3 and that is what we are doing now. But I would say our  
4 optimism of receiving that information from Mr. Giuliani is  
5 measured, at best. We may be more successful and we have been  
6 up to this point, with some third-party discovery. The reality  
7 here is that my clients have been waiting a long time for  
8 compensation and at this point they're doing everything they  
9 can to get it but we are up against a lot of resistance.

10 THE COURT: Maybe to cut to the chase in the  
11 miscellaneous matter, it is not just the information subpoena  
12 but it may be other subpoenas and other justification  
13 ultimately leading either to expansion, if I authorize a  
14 receiver to the receiver's authority, or additional turnover  
15 motions.

16 MR. NATHAN: I think that's a fair prediction. I will  
17 say the property that we know about is the property we have  
18 already characterized -- I shouldn't be so absolute. We have  
19 tried to cover a significant portion of the property we know  
20 about in the turnover motion that's already been filed but that  
21 is just based on Mr. Giuliani's disclosures in the bankruptcy  
22 case which we also know we are not complete or always perfectly  
23 accurate, so there may be other stuff that would get rolled  
24 into that. There may also be property held by third-parties  
25 where a receivership, potentially, would be unnecessary because

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1 the third-parties in many cases we expect, will just comply to  
2 the turnover.

3 THE COURT: They would be garnishees subject to civil  
4 action.

5 MR. NATHAN: The civil action filed also on August 30,  
6 that is the action, Docket no. 24 Civ. 6563. That is a  
7 declaratory judgment action seeking to confirm plaintiffs'  
8 rights against the Florida condominium apartment.

9 The backstory here is that there was a moment in the  
10 bankruptcy where Mr. Giuliani, as late as I think as July 9,  
11 had asked to liquidate all of his non-exempt assets, he  
12 essentially asked to convert from Chapter 11 to Chapter 7.  
13 That is not what ended up happening but at that moment the plan  
14 was that everything that wasn't exempt would be sold. Then  
15 Mr. Giuliani seems to have hatched a new plan which was, on  
16 July 15, he executed an affidavit in New Hampshire that said I  
17 live in Florida now. I am summing up but that's the gist of  
18 it. Mr. Giuliani also publicly broadcasts his location on a  
19 regular basis and that complaint alleges that, on virtually  
20 every day and on every day that we are aware of, his location  
21 since Mr. Giuliani changed his mind or purported to change his  
22 mind about where he lives he was actually in New Hampshire, in  
23 Europe, in Chicago, in Dallas, anywhere but Palm Beach.

24 THE COURT: So in the civil action what remains is the  
25 date for a responsive pleading; is that right?

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1 MR. NATHAN: Yes.

2 THE COURT: And then a case management plan.

3 MR. NATHAN: I don't know if this will come as good  
4 news or bad news but our plan is for things to proceed a little  
5 differently than that. This is also not something that I had  
6 an opportunity to discuss with Mr. Caruso, it was on the agenda  
7 before the letters materialized yesterday, but as things stand,  
8 it is plaintiffs' position that based on the publicly available  
9 evidence, we are entitled to judgment as a matter of law and we  
10 intend to file a summary judgment motion not later than  
11 Wednesday of next week seeking summary judgment. If  
12 Mr. Giuliani wants to contest summary judgment or thinks that  
13 there is evidence that could create a material dispute, all  
14 that evidence is in his possession, he can disclose it all and  
15 we can have a very expedited hearing on the merits. But, until  
16 he does that, it is our position that because the Court in this  
17 case where he has been publicly broadcasting his location since  
18 he made this claim of residence in Florida, there is really  
19 nothing -- summary judgment is appropriate now.

20 THE COURT: So, two follow-up questions and I  
21 apologize for interrupting you, but it appears to me that to  
22 the extent in the miscellaneous matter you are seeking a  
23 receiver for the Florida property, I can't resolve that until I  
24 resolve your request for a declaratory judgment in the civil  
25 action number. Am I correct about that?

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1 MR. NATHAN: I'm not sure that that's quite right only  
2 because I think, and this is why we filed -- this is why we  
3 filed the declaratory judgment action. We wanted to put this  
4 in issue and make sure that this issue was presented and  
5 decided conclusively because we weren't sure what defenses  
6 Mr. Giuliani might raise to the turnover or receivership  
7 motion. Frankly we weren't sure that he would appear and  
8 oppose it and we didn't want to be in a position where we were  
9 stuck litigating about these issues without an opponent and  
10 without a basis for this Court to enter a real judgment that  
11 would have preclusive effect going forward. I am not really in  
12 a position to say or take a position on whether you could take  
13 the step of just appointing receivers over the property. It  
14 might be a question of whether the receivers have power to sell  
15 without further procedure related to the homestead exemption.  
16 Either way, we have tried to clean that up by filing the  
17 declaratory judgment action.

18 THE COURT: So, by your calculation, when is the  
19 responsive pleading due in the civil action?

20 MR. NATHAN: The responsive pleading is due Wednesday,  
21 October 2. That is also the date we plan to file the summary  
22 judgment motion.

23 THE COURT: And then the response to summary judgment  
24 motion, according to the Court rules, would be the 16th.

25 MR. NATHAN: Would be 14 days which would be the 16th.

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1 I would say this is not somewhere that -- we just didn't get  
2 this far with Mr. Caruso when we were discussing scheduling  
3 matters. Where this was headed, at least as far as our own  
4 position was concerned, was that to the extent there is a  
5 responsive pleading or a responsive motion, it might make sense  
6 to roll that into the briefing on the summary judgment motion  
7 that is forthcoming. But the key, from our perspective, is  
8 that there is really -- the civil action is something that can  
9 be decided really quickly. What is at issue, from our  
10 perspective, is whether Mr. Giuliani established actual  
11 residency in the Palm Beach condo during the relevant period.  
12 The public record indicates that he was not there at all. Not  
13 to say that we would even have to prove that much. But I think  
14 anybody in this courtroom could figure out where they were  
15 physically for the last 90 days, more or less off the top of  
16 their head. It is not an evidentiary-complicated issue that  
17 needs to be decided. We think discovery, if discovery were  
18 necessary, could be lightning fast and we could be ready for a  
19 merits hearing on that question. Again, that is assuming that  
20 there is even evidence that Mr. Giuliani can come forward with  
21 to resist summary judgment in the first place.

22 THE COURT: So are there any other motions or  
23 deadlines?

24 MR. NATHAN: No.

25 THE COURT: OK. If the summary judgment response is

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1 not going to be due until October 16, and even if, as you  
2 suggested, that date might also be the date for the responsive  
3 pleading in the civil action number, is there any reason why I  
4 wouldn't set a uniform date of October 16 for everything that  
5 we have discussed so far, maybe leaving aside the motion to  
6 quash?

7 MR. NATHAN: Yes, your Honor. And I am sorry to be a  
8 stick in the mud on this, but our clients have been around the  
9 block with Mr. Giuliani quite a lot. We filed a turnover  
10 motion because -- and maybe I should explain. The background  
11 for the need for speed in this case, as things stand right now,  
12 again, this was subject to ongoing discussion at the time  
13 Mr. Caruso filed the letter and hasn't continued since but  
14 there is no reason it couldn't resume; there are three reasons  
15 why we need to move as quickly as we possibly can and can't do  
16 piecemeal extensions on every little thing, certainly not  
17 without objection.

18 The first and probably most important is that the  
19 dismissal of Mr. Giuliani's bankruptcy case came with a  
20 one-year bar on refiling. That dismissal was entered August 2,  
21 2024. We started up in this court on August 5 and we have been  
22 pushing since then. Mr. Caruso only appeared, it is true, a  
23 couple weeks ago, but Mr. Giuliani could have hired counsel at  
24 any time before that. He has got counsel in many other matters  
25 and, for that matter, he has got the same counsel on his appeal

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1 for the final judgment in D.C. is appearing in this case.

2 We only have a year, and at this point only 10 months,  
3 from our perspective, before Mr. Giuliani files a new  
4 bankruptcy case to throw another wrench in my clients' efforts  
5 to get compensation and accountability. So we are just not  
6 willing to slow things. Two months have gone by already and we  
7 are not really willing to slow anything down any more than it  
8 absolutely has to be. That is not to say we haven't and won't  
9 extend professional courtesies when they are necessary. But,  
10 we offered a deadline of October 7 for the turnover and  
11 receivership motion. That offer, we didn't get a response, we  
12 got this letter instead. So we think we are extending  
13 professional courtesies where they are appropriate.

14 THE COURT: Putting aside the questions of  
15 professional courtesy, I'm not accusing anybody of being  
16 professionally incourteous [sic]. So, was there another  
17 reason?

18 MR. NATHAN: I apologize. There is two more.

19 Another, which it is in our papers but is probably  
20 important.

21 THE COURT: It is not professionally incourteous  
22 [sic]. I probably should have said discourteous, but go ahead.

23 MR. NATHAN: In our papers we pointed this out but  
24 just so it is also in the back of everyone's mind, the two  
25 principal assets available to Mr. Giuliani's creditors are the



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1 two apartments. Each of them comes with pretty hefty monthly  
2 maintenance fees. I think it's about \$15,000 in New York and  
3 about \$10,000 in Florida. That just means that every month  
4 that goes by Mr. Giuliani -- and the bankruptcy established I  
5 would say a pattern -- at best he was uneven about making sure  
6 the maintenance got paid and as far as we know when we get to  
7 those apartments, they may come with pretty substantial  
8 obligations to the co-op or to the condominium association,  
9 respectively, that the creditors will be left holding the bag  
10 with. That is another reason that we need to move as quickly  
11 as we can.

12 And then the third is, as I have been discussing this  
13 afternoon, we have been here before. There is a pattern that  
14 we are now familiar with of Mr. Giuliani asking for more time,  
15 then coming forward, if he comes forward with anything at all,  
16 with something that is just patently insufficient. Then that  
17 needs to be addressed either through motion practice or  
18 otherwise. And the reality is at this point, after years of  
19 litigation and eight months of bankruptcy, the amount of  
20 complete responsive productions we have ever received from  
21 Mr. Giuliani about anything is probably, could be summarized --  
22 the number of documents might shock how little we have ever  
23 ultimately gotten.

24 Now, having said all of that, that is a problem we  
25 have to live with but it also means that my clients are just --

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1 we are not going to agree to extensions that take us nowhere.

2 THE COURT: I understand the points that you are  
3 making. The question that is on my mind has to do with the  
4 Florida property which is a portion of the request that you  
5 have made in the miscellaneous matter and whether it is  
6 sensible to have Mr. Caruso respond on the 7th, let's say, to  
7 that, or an earlier date to that with respect to the Florida  
8 property when his response with respect to the Florida property  
9 in the civil action is not going to be due until later.

10 MR. NATHAN: That I understand and I would say that if  
11 your Honor is of the view that the questions relating to the  
12 Florida property, including whether the Florida property is  
13 eligible for receivership for this reason having to do with the  
14 homestead exemption should be decided together, I think what I  
15 would suggest, at least from plaintiffs' point of view, is that  
16 may be the case but then it would still not be a reason not to  
17 decide the other matters raised in the turnover motion and  
18 receivership motion on the current schedule.

19 THE COURT: Is there anything else, Mr. Nathan?

20 MR. NATHAN: I think your Honor had asked us to --

21 THE COURT: The information subpoena.

22 MR. NATHAN: Oh, there is the information subpoena. I  
23 think we will just have to understand from Mr. Caruso what  
24 Mr. Giuliani's plan is with respect to that subpoena. I have  
25 to say we are not -- I don't know what kind of assurances we

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1 could accept at this point that a response that is sufficient  
2 will be forthcoming so we may just need to address that in due  
3 course.

4 THE COURT: I gather through a motion to compel at  
5 some point.

6 MR. NATHAN: Yes. So, maybe to be continued on that  
7 one. The other issue that was raised in your Honor's order was  
8 the question of consolidation under Rule 42 and I am happy to  
9 address that.

10 THE COURT: Why don't you address it now.

11 MR. NATHAN: The short answer is we have no objection.  
12 I think it sounds as if we are on the same page. To the extent  
13 that there is significant overlap between the two matters it is  
14 not perfect and, as I laid out, the miscellaneous action will  
15 end up encompassing a lot more than what is at issue in the  
16 civil action. But, that said, if it is administratively  
17 convenient to the Court to consolidate them, we would have no  
18 objection, with the understanding that consolidation doesn't  
19 affect the separateness of the cases for purposes of appeals  
20 from final decisions in either of the cases.

21 THE COURT: What I am inclined to do, and then I will  
22 hear from Mr. Caruso, is for now hold off on consolidation but  
23 continue to hold hearings in both matters at the same time with  
24 the transcript to be filed in both matters. But, I will hear  
25 from Mr. Caruso.

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1           Mr. Caruso, I have a couple of questions for you and  
2 then I will hear from you on the deadlines.

3           MR. CARUSO: Yes, your Honor.

4           THE COURT: The first question, I am now looking at  
5 the turnover order, the various items of property and your  
6 letter talks about the apartments, but with respect to the  
7 other items of personal property, just to streamline things, is  
8 there anything that you are able to tell me today that  
9 Mr. Giuliani is going to turn over? Can we go through this and  
10 say he is going to turn over the items of furniture,  
11 television, I can sign an order to that effect?

12           MR. CARUSO: Your Honor, I can't commit to that today.  
13 I haven't even read these papers until today and I haven't  
14 spoken to the client. I need some time to get this case  
15 organized. And I am sure -- I am sure -- that there are going  
16 to be items where I will come in and say there is no defense  
17 and we can give it to receiver. But, for example, for  
18 example --

19           THE COURT: I heard you say that you are not going to  
20 be able to today help me streamline this. Tell me why it is  
21 that you should get any extension, and if you get any  
22 extension, why it should be beyond October 7.

23           MR. CARUSO: Because I need a little more time than  
24 that to get everything in this case organized.

25           THE COURT: I mean, turnover motions are not terribly

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1 complicated in a case where -- how long have you been  
2 representing your client?

3 MR. CARUSO: I appeared a week ago.

4 THE COURT: I know how long ago you appeared in this  
5 case. How long have you been representing him?

6 MR. CARUSO: On an appeal? Since -- I think it was  
7 March? May? April?

8 THE COURT: Judgment collection is not something that  
9 has been alien to Mr. Giuliani, but go ahead. Tell me why you  
10 are going to need a lot of time to address the question of  
11 turnover of the Mercedes Benz, the furniture, the television,  
12 the sports memorabilia, the Reggie Jackson picture, the Joe  
13 DiMaggio shirt, the rings.

14 MR. CARUSO: Because, for example, with respect to  
15 property that is unique, of course it can be monetized --  
16 priced and monetized, but it also might make sense to put that  
17 property into the hands of a receiver so it is out of the  
18 defendant's hands but not sold yet pending an appeal.

19 THE COURT: No, no. Pending an appeal you would have  
20 to bond it. You are not bonded.

21 MR. CARUSO: But, Judge, you don't have to bond it.  
22 There are plenty of cases under CPLR 5240 that say that a Court  
23 has discretion to refrain from --

24 THE COURT: I'm aware of those cases. In fact, I  
25 dealt with some of them in the *Ramen-Ya* case that I had. So

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1 you will brief them to me but you may have a little bit of an  
2 uphill battle in saying that those cases, which really talk  
3 about protecting somebody's ability to live day-by-day, apply  
4 to World Series rings. I am sure Mr. Giuliani can live without  
5 his World Series rings.

6 MR. CARUSO: Your Honor, I just want to make another  
7 point.

8 THE COURT: Can he?

9 MR. CARUSO: Excuse me?

10 THE COURT: Can he live without his World Series  
11 rings?

12 MR. CARUSO: I suppose so. Who can't?

13 THE COURT: OK.

14 MR. CARUSO: I want to make another point because  
15 Mr. Nathan said -- this is from his clients -- this is the end  
16 of a long process. No, it isn't. No, it isn't. I am filing  
17 an appellate brief on Wednesday. They have a lot to answer  
18 for. OK? There is a lot more ahead.

19 THE COURT: No, I understand that but you are not  
20 bonded, are you?

21 MR. CARUSO: No, because what bonding company is going  
22 to bond a ridiculous amount of \$140 million? No bonding  
23 company is going to do that. We have to do this on our own and  
24 that's exactly what we are doing.

25 THE COURT: You are speaking to the wrong Court with

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1 respect to that.

2 MR. CARUSO: Yes, I understand that. Although, 5240  
3 does use the word "stay" in some of the cases.

4 THE COURT: I am aware of 5240.

5 MR. CARUSO: Look, your Honor. Please. It seems to  
6 me you have three things. You have an answer to a complaint, a  
7 case that was originally filed in front of Judge Hellerstein.  
8 I have got the response to a motion for turnover which involves  
9 substantive law including Florida homestead law and the law of  
10 domicile. I will come back to that. And point three, I have  
11 got this subpoena, the information subpoena. The briefing in  
12 opposition to the turnover motion is going to call for some  
13 research and writing because the law of domicile is not what  
14 Mr. Nathan says. He said there has to be an actual residency.  
15 No, it doesn't. That is not right. A person can change his  
16 domicile instantaneously. It requires the existence of a  
17 residence, which Mr. Giuliani has, and a state of mind to make  
18 that new place your permanent home. That is a fact question.  
19 A fact question. He points to 47 days in which I think the  
20 numbers are, 34 of them Mr. Giuliani was out of Florida. Yes,  
21 on business. He was at the DNC and the RNC. Being away from  
22 your home for business doesn't go against your claim of  
23 domicile. 47 days is a pathetically short period of time  
24 within which to measure domicile. It can be changed  
25 instantaneously and it doesn't require actual presence or

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1 actual residence. Look at members of the armed forces. They  
2 don't lose their domicile when they go abroad. Members of big  
3 law firms get assigned to the European office, they don't lose  
4 their American domicile. It has to do with the state of mind.  
5 Which brings me to the next point about a summary judgment  
6 motion. This is not a word I throw around very -- I'm not  
7 going to throw it around. Surely there is a question of fact.  
8 State of mind. Domicile turns on that. If he doesn't want to  
9 do discovery, that is fine, but summary judgment? That, to me,  
10 sounds ridiculous. And summary judgment before I answer?  
11 That's even more ridiculous. Right? Let's -- I would like two  
12 more weeks. It is not asking a lot. I am new to this case --

13 THE COURT: Let me ask you this question. You heard  
14 my question to Mr. Nathan about the overlapping in the matters  
15 and I now hear you talking about the overlap in the matters a  
16 little bit but what is your view on that with respect to the  
17 Florida property, request for the turnover.

18 MR. CARUSO: Your Honor anticipated the point that I  
19 was going to make. I don't see how you can possibly rule on a  
20 turnover in the miscellaneous case while the whole question of  
21 domicile and homestead exemption is at issue in the civil  
22 action.

23 THE COURT: So why can't you, in your response on the  
24 miscellaneous matter with respect to the Florida property,  
25 address the question that I addressed to Mr. Nathan?



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1 Mr. Nathan said he was not sure whether I would have to decide  
2 the declaratory judgment matter before a receiver was  
3 appointed. I hear you now arguing you have to -- you, Judge --  
4 have to decide whether the Florida property is Mr. Giuliani's  
5 homestead before you put it in the hands of a receiver. I  
6 understand the arguments both ways but it strikes me that you  
7 could address that law, and then later on addressing for me  
8 whatever arguments you have got that the Florida property is  
9 his homestead.

10 MR. CARUSO: I understand, your Honor, and I am not  
11 sure where you are going --

12 THE COURT: Where I am going is whether what I should  
13 do is require you, in the miscellaneous matter, to respond on  
14 October 7 to the turnover motion which is substantial  
15 extension, a very substantial extension from the date that I  
16 have set. Basically it is a two-week extension from the date  
17 that I set and gives you four weeks from the date that it was  
18 served, and let's leave aside the restraining notice for a  
19 second, and then have you respond on the 16th in the civil  
20 action with an answer and an opposition to the motion for  
21 summary judgment, if you are intending to oppose it.

22 Why isn't that generous?

23 MR. CARUSO: Now I see where your Honor is going. How  
24 about Friday, the 11th for the turnover, and I ask that because  
25 my one and only associate will be out for Rosh Hashanah up to

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1 October 7. I just don't think it is asking a lot, your Honor.  
2 October is not far away. Your proposal regarding October 16  
3 for the civil action with an answer and an opposition to the  
4 motion for summary judgment is fine. That is fine. That is  
5 what I asked for. Can I have a little more than the 7th? I  
6 have a major filing due on Monday in state court. I have got a  
7 brief in this very case due on Wednesday.

8 THE COURT: When are you going to respond to the  
9 motion to quash? And really, frankly, do you have any  
10 opposition to the motion to quash?

11 MR. CARUSO: Oh, the motion to quash. Sorry. I  
12 misunderstood. To me, that should be the least of our concerns  
13 because the money is frozen. The bank is holding it. It is  
14 out of Mr. Giuliani's hands. Now, it is not in their hands, of  
15 course, but it is out of Mr. Giuliani's hands.

16 THE COURT: The effect of an exemption is that you are  
17 exempt from the restraining notice; isn't that right,  
18 Mr. Nathan?

19 MR. NATHAN: Yes, your Honor.

20 THE COURT: So if you are telling me that you are  
21 going to withdraw the exemption request then that makes life  
22 easy, then you don't have to respond so here is what I have in  
23 mind: You will respond on October 1 to the motion to quash.  
24 Taking into account Rosh Hoshanah, you will respond on  
25 October 8 to the motion to enforce. And on the 16th, you will

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1 respond to the motion for summary judgment and you will file a  
2 responsive pleading.

3 MR. CARUSO: May I just look at my book for a moment?

4 THE COURT: Yes. Go ahead.

5 MR. CARUSO: Again, please, your Honor, considering  
6 what else I am doing, especially in this case between Monday  
7 and Wednesday of next week, can we make that October 1st date  
8 the 4th? It is three days and it makes a big difference to me  
9 and the quality of my work.

10 THE COURT: No. It's pretty simple. You can do it on  
11 October 1st. You have got a weekend, you can work on it.

12 MR. CARUSO: I have got a weekend to work on my  
13 appellate brief.

14 THE COURT: One other matter. I am wondering if I  
15 should have you in shortly after October 16 to talk about  
16 future dates in this case. Among other things, I want to move  
17 on a quick basis so if it looks like you are going to be filing  
18 a Rule 56(d) application with your motion for summary judgment,  
19 it may be that we should at least have some provisional dates  
20 on the calendar for discovery and for what I presume, under  
21 homestead, would be Mr. Giuliani's deposition and deposition of  
22 others.

23 MR. CARUSO: That's what I would expect.

24 THE COURT: So, I assume he is keeping himself -- he  
25 will be available for deposition in late October and early

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1 November.

2 MR. CARUSO: Let's fix a date and I will make sure he  
3 is available.

4 THE COURT: OK.

5 MR. CARUSO: I agree with you, your Honor. After the  
6 16th let's have a conference and fix these dates, and maybe  
7 between now and then counsel can come up with some suggestions.

8 THE COURT: And frankly, it may be that we don't need  
9 discovery. I am not prejudging the issue of discovery. What I  
10 want to avoid is the circumstance where the motion is fully  
11 briefed and then I decide that there is a question of fact and  
12 it turns out that you are going to come to me and say, well,  
13 you know, Mr. Giuliani is a busy man and he can't make himself  
14 available for deposition and where the plaintiff can't get the  
15 documents that they want so that's what I am trying to avoid.

16 MR. CARUSO: I will try to avoid that as well.  
17 Mr. Nathan is talking about a pattern of conduct. I wasn't  
18 part of that.

19 THE COURT: I'm not going to make a judgment with  
20 respect to that. What I do have in front of me right now is  
21 something of a deadline and the need for this case to go  
22 quickly. Judgment enforcement actions are not supposed to be  
23 extended, lengthy proceedings. The plaintiffs have their  
24 judgment. Your client owes them money. Your client has an  
25 obligation, imposed by law, imposed by a Court, to satisfy that

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1 judgment. Your client has to turn over to them all of the  
2 assets that he has in order to satisfy that judgment, except to  
3 the extent those assets are exempt. That should move quickly.

4 Mr. Nathan, do you have a view -- you can answer  
5 without going to the podium -- about how I manage things so  
6 that the case is not delayed if there is a need for discovery?

7 MR. NATHAN: Your Honor's suggestion makes perfect  
8 sense to us. I think scheduling a date for a conference  
9 following any opposition that is filed to the motion for  
10 summary judgment would be useful and the time frame that you  
11 sketched out sounds right to us. As we said before, if there  
12 is a question of fact, the relevant evidence is all going to be  
13 in the defendant's possession and it will not or should not be  
14 complicated to produce and then sit for deposition.

15 THE COURT: OK. Matt, let's come up with a date.

16 MR. CARUSO: Your Honor, can we go through the dates  
17 again for avoidance of doubt?

18 THE COURT: No. You will have them on a piece of  
19 paper that I will issue so it will be abundantly clear from an  
20 order that I will issue.

21 MR. CARUSO: Can I take one more run at this? The  
22 date of the 8th, can you move that to Friday the 11th, please?

23 THE COURT: No. You asked for that and I ruled.

24 We need a date after October 16.

25 (Court and Deputy Clerk confer)

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1 THE COURT: How is October 17 at 10:00 am?

2 MR. NATHAN: Unfortunately the holidays are all in the  
3 middle of the week this year. The 17th and 18th I am  
4 unfortunately unavailable, and the same goes for the 24th and  
5 the 25th, but Monday through Wednesday of each of those weeks.  
6 Having said that, if that's --

7 THE COURT: Mr. Nathan, is there somebody else that  
8 can cover? I have an obligation the beginning of the following  
9 week and I don't want to do it too close to when I receive the  
10 papers. The 17th and 18th you are out. How is the 16th?

11 MR. NATHAN: I am available on the 16th.

12 THE COURT: Late in the day the 16th? Does that work  
13 for you, Mr. Caruso?

14 MR. CARUSO: For another conference, your Honor?

15 THE COURT: Yes.

16 MR. CARUSO: Yes. That's fine.

17 (Court and Deputy Clerk confer)

18 THE COURT: I think we are going to have to keep it as  
19 the 17th at 10:00. Does that work, Mr. Caruso?

20 MR. CARUSO: Yes, your Honor.

21 THE COURT: Mr. Nathan, you have a big firm. I am  
22 sure somebody else can cover for you.

23 MR. NATHAN: We will be OK.

24 THE COURT: Anything else from plaintiff?

25 MR. NATHAN: No, your Honor.

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1 THE COURT: Mr. Caruso, anything?

2 MR. CARUSO: Nothing, sir.

3 THE COURT: Have a good weekend, everybody. Thank

4 you.

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